

**Remarks**

The Examiner's Office action mailed June 1, 2009, which rejected pending claims 1-44, 102, and 107-134 has been reviewed. Claims 1, 10, 102, 107, 130, and 132-134 have been amended and 59, 103-106 and 135-140 have been cancelled. Applicants appreciate and acknowledge the Examiner's indication of allowable subject matter in claims 45-58 and 60-101. In view of the following remarks, Applicants respectfully submit that the application is in condition for allowance.

**Examiner's Response to Previous Arguments**

As an initial matter, Applicants thank the Examiner for the Response to Applicants' Remarks in the previous Response. The Examiner stated that he did not agree with applicant's previous argument that the Examiner incorrectly equated "delivery server 118" with the "stream caster" because the applicant's specification does not provide a limiting definition for the stream caster. The examiner further states that "The specification gives examples of features that a stream caster might have but it does not limit the definition of the claimed stream caster. Because the delivery server teaches all of the limitations explicitly claimed as being part of the stream caster, the delivery server anticipates the claimed stream caster." (See Office action, page 2.) Applicants respectfully disagree.

As explained in more detail below, not only does the delivery server described in Wisner fail to teach all of the limitations set forth in the Amended claims, but the delivery server also teaches away from the claimed stream caster.

**Claim rejections under 35 U.S.C. § 102**

The Examiner rejected claims 1-44, 102, and 107-134 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Number 6,385,596 to Wisner et al. ("Wisner") Applicants submit that Wisner fails to disclose, teach, or suggest each and every element of Applicants' claims and, thus, Wisner is not an anticipatory reference under 35 U.S.C. § 102(e).

MPEP § 2131 states: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2

USPQ2d 1051, 1053 (Fed. Cir. 1987).). A claim cannot be rejected under 35 U.S.C. § 102 unless each and every claim limitation is found in the cited reference.

The following is independent claim 1 with underlined portions that are not disclosed, taught, or suggested by the cited reference.

1. (Currently Amended) A system for streaming media to a viewer for a request for the media, the system comprising:

a stream routing processor executing instructions to:

receive reservation data comprising a valid reservation identification; and

transmit the valid reservation identification; and

a stream caster to:

receive a reservation identification for the request;

receive the reservation data identifying the valid reservation identification from the stream routing processor;

compare the reservation identification to the valid reservation identification to determine if the reservation identification is valid; and

stream at least partially the media to the viewer when reservation identification is valid.

In applying the teachings of Wiser to the claims, Applicants respectfully submit that the Examiner continues to incorrectly equate the “delivery server 118” described in Wiser with the “stream caster” as claimed and described in the present application. Regarding claim 1, the Examiner asserts that “Wiser teaches a stream caster (delivery server 118) to: receive a reservation identification for the request (col. 19, lines 4-7); receive the reservation data identifying the valid reservation identification from the stream routing processor (col. 19, lines 26-32), and validate the reservation identification using the valid reservation data (col. 19, lines 33-43, by retrieving the media the delivery server is “validating” the reservation).” (See Office action at page 3.) Applicants submit that not only is the stream caster distinct and different from the delivery server 118 disclosed in Wiser, but the delivery server in Wiser teaches away from the claimed stream caster recited in claim 1.

Wiser discloses an “online music distribution system that provides consumers with the flexibility and ease of use in the selection, previewing, downloading, and transporting of audio and other digital media over the Internet.” (See Wiser, column 3, lines 6-9.) With respect to the portion of Wiser cited by the Examiner as disclosing the claimed stream caster to validate the reservation identification, Wiser provides:

“The delivery server 118 retrieves 958 the licensed media from the master media data file system 120 according to the media ID included in the media voucher 300, and sends 960 it to the media player 116 using a secure protocol, such as SSL, to ensure that no one else can determine which music is being downloaded by the media player 116. The downloaded media data is hashed by the media player 116 and sent back to the delivery server 118 to verify complete receipt. In a preferred embodiment, the delivery server 118 limits the rate of the data transfer to the media player 116 to conserve network resources.” (See Wiser, column 19, lines 33-43.)

Applicants respectfully submit that the Examiner has read the cited portion out of context and, therefore, misinterpreted the teaching of Wiser. In particular, Applicants submit that the delivery server in Wiser does not validate and/or verify any data. Regarding verification, Wiser provides:

“The delivery server 118 sends 950 the encrypted data and the cleartext voucher ID 302 to the content manager 112 for verification.” (See Wiser, column 19, lines 8-10.) (Emphasis added.)

“The content manager 112 maps the voucher ID 302 to the receipt token in the transaction database 130. The content manager 112 then uses the receipt token to verify 952 the MAC encoded voucher ID and other data.” (See Wiser, column 19, lines 11-14.) (Emphasis added.)

“If the voucher ID is verified, the content manager 112 encrypts 954 the song’s media key with the public key of the media player 116. In this manner, the media becomes specifically and individually licensed to the consumer; the media data file 200 is now referred to as the licensed media. Security in this step of the transaction is provided by the fact that media player 116 must prove that it has both the public/private key pair issued by the media licensing center 110 and the receipt sent as part of the purchase transaction. The certificate chain is validated upon receipt from the player.” (See Wiser, column 19, lines 15-25.) (Emphasis added.)

“The content manager 112 then returns 956 the encrypted media key, along with audio quality information (bit rate and number of channels), the public key algorithm used with the media key itself and encryption parameters, the authorization

token, media ID, the voucher ID, and the content manager's certificate serial number, and the media player's certificate number to the delivery server 118." (See Wiser, column 19, lines 26-32.)

Accordingly, Wiser discloses that the verification of data occurs at content manager, which is separate from the delivery server. Applicants point out that additional communication between the delivery server and the content manager increases the time required for validating data.

Moreover, the Examiner's statement that "by retrieving the media the delivery server is validating" contradicts the teachings of the Wiser reference. Wiser does not describe validating as simply retrieving the media the delivery server, but rather describes verification as a process that takes place at the content manager not the delivery server. (See Wiser, column 19, lines 11-32.). In contrast, the claimed stream caster is configured to receive a reservation identification, to receive from the stream routing processor the reservation data identifying the valid reservation identification, to validate the reservation identification using the valid reservation data, and, if validated, to stream at least partially the requested media. For example, the present application discloses after the stream caster receives an invalid reservation identification, "the stream caster compares the invalid reservation identification with the reservation data received from the SRP 202, determines that the reservation identification is not valid, and terminates the session with the viewer 118." (See application, paragraph 161.) Neither the cited portion nor any other portion of Wiser discloses that the deliver server validates a reservation ID.

Applicants point out that a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983). Applicants submit that the cited portion of Wiser teaches away from the delivery server 118 validating the reservation data or voucher ID data by disclosing that delivery server 118 sends the encrypted data and the cleartext voucher ID to the content manager 112 for verification, which is also not equivalent to stream caster, validates that the voucher ID. (See Wiser, Column 19, lines 8-10.)

Applicants also remind the Examiner that unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations

arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102. *Net MoneyIn, Inc. v. Verisign, Inc.* 545 F.3d 1359 (Fed Cir. 2008). A stream caster that validates data and streams data to a viewer is not the same as a delivery server that sends data to a separate device (i.e., content manger) for verification. Wiser does not disclose all of the limitations arranged or combined in the same way as recited in claim 1.

Nonetheless, Applicants have amended claim 1 to further clarify to the distinctions between the claimed stream caster and the delivery server described in Wiser. Amended claim 1 recites, in part, a stream caster to compare the reservation identification to the valid reservation identification to determine if the reservation identification is valid. Although Wiser fails to disclose, teach, or suggest that the delivery server validates any data, there is certainly no disclosure in Wiser that the deliver server compares received data to valid data to determine if the received data is valid.

Applicants remind the examiner, that “when evaluating the scope of a claim, every limitation in the claim must be considered. USPTO personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered.” *See, e.g., Diamond v. Diehr*, 450 U.S. 175, 188-89 (1981). The Examiner is not considering every limitation in the claim. In particular, the Examiner must find that the cited reference teaches or suggests a stream caster to compare the reservation identification to the valid reservation identification to determine if the reservation identification is valid.

For the reasons discussed above, Applicants submit that Wiser not only fails to teach or suggest each and every element of amended claim 1, but the cited references clearly does not disclose all of the limitations arranged or combined in the same way as recited in claim 1. Thus, independent claim 1 is not anticipated by Wiser.

Claim 10 is patentable over Wiser under 35 U.S.C. § 102(e). The following is claim 10 with underlined portions that are not disclosed, taught, or suggested by the cited reference.

10. A switch for streaming media to a viewer for requested media, the switch comprising:

a stream routing processor executing instructions to:

receive signaling inquiring if the switch can stream the requested media;  
determine if the switch is configured to stream the requested media; and  
receive reservation data comprising a valid reservation identification when the  
switched is configured to stream the media; and

a stream caster to:

receive a reservation identification for the requested media;  
receive from the stream routing processor the reservation data identifying the  
valid reservation identification;  
compare the reservation identification to the valid reservation identification to  
determine if the reservation identification is valid; and  
stream at least partially the requested media to the viewer when the  
reservation identification is valid.

The remarks made above with respect to claim 1 and the disclosures of Wiser similarly apply to claim 10. With respect to claim 10, Wiser fails to teach, disclose, or suggest a stream caster to compare the reservation identification to the valid reservation identification to determine if the reservation identification is valid. Again, Wiser does not disclose that the delivery server, which Examiner asserts is equivalent to the stream caster, compares received data to valid data to validating reservation identification. As described above, Wiser teaches away from this claimed aspect.

Moreover, as set forth in claim 10, the stream caster is a part of a switch. For example, the present application provides: "This process of being able to service media requests from more than one switch or more than one stream caster on a switch is unique to this streaming system 102" (see Application, paragraph 53); "Also, multiple devices on one switch, such as two different stream casters on a switch, each may stream one of the media clips or one device on the switch may stream both media clips." (see Application, paragraph 66); and "The MMS 110 has other communication devices, such as one or more stream casters and one or more media servers, that provide requested media to a viewer 116 or 118." (see Application, paragraph 74). Amended claim 10 recites in part "A switch . . . comprising . . . a stream caster . . ." Wiser does not teach, disclose, or suggest a stream caster is a part of

a switch as set forth in amended claim 10. Applicants point out that previously presented claim 10 recited that the switch comprised a stream caster. Thus, this is not new matter.

Amended claim 102 is patentable over Wiser under 35 U.S.C. § 102(e) because the underlined portions of independent claim 102 below are not disclosed, taught, or suggested by the cited references.

102. A switch for streaming media to a viewer comprising:  
a stream caster to accept a session from the viewer to stream at least partially a  
requested media upon receiving and validating a reservation identification  
using  
a valid reservation identification, wherein validating the reservation  
identification comprises comparing the reservation identification to the valid  
reservation identification at the stream caster to determine if the reservation  
identification is valid;

a stream routing processor executing instructions to:

determine if the stream caster is configured to stream the requested media, and  
receive reservation data comprising the valid reservation identification when  
the stream caster is configured to stream the requested media; and  
transmit the valid reservation identification to the stream caster; and

a switch controller to monitor the stream caster during streaming and to notify the  
stream routing processor of a status of the stream caster.

The remarks made above with respect to claim 1 and the disclosures of Wiser similarly apply to claim 102. With respect to claim 102, Wiser fails to teach, disclose, or suggest a stream caster to accept a session from the viewer to stream at least partially a requested media upon receiving and validating a reservation identification using a valid reservation identification. As defined in claim 102 validating the reservation identification comprises comparing the reservation identification to the valid reservation identification at the stream caster to determine if the reservation identification is valid. Wiser also does not teach, disclose, or suggest a stream caster is a part of a switch.

Amended claim 107 is patentable over Wiser under 35 U.S.C. § 102(e) because the underlined portions of independent claim 107 below are not disclosed, taught, or suggested by the cited references.

107. A method for streaming media from a switch comprising:  
determining if a stream caster of the switch is configured to stream a requested media;  
receiving reservation data comprising a valid reservation identification at the stream  
caster; and  
accepting a session to stream at least partially the requested media upon receiving and  
validating a reservation identification using the valid reservation identification  
at the stream caster, wherein validating the reservation identification comprises  
comparing the reservation identification to the valid reservation identification  
at the stream caster to determine if the reservation identification is valid.

The remarks made above with respect to claim 1 and the disclosures of Wiser similarly apply to claim 107. With respect to claim 107, Wiser fails to teach, disclose, or suggest accepting a session to stream at least partially the requested media upon receiving and validating a reservation identification using the valid reservation identification at the stream caster, wherein validating the reservation identification comprises comparing the reservation identification to the valid reservation identification at the stream caster to determine if the reservation identification is valid. Wiser also does not teach, disclose, or suggest a stream caster is a part of a switch and, thus, cannot teach not teach, disclose, or suggest determining if a stream caster of the switch is configured to stream a requested media.

Amended claim 130 is patentable over Wiser under 35 U.S.C. § 102(e) because the underlined portions of independent claim 130 below are not disclosed, taught, or suggested by the cited references.

130. A method for streaming media from a switch comprising:  
receiving at a stream caster reservation data comprising a valid reservation  
identification;



comparing a reservation identification received at the stream caster to the valid reservation identification to determine if the reservation identification is valid;  
and  
terminating an attempted session to stream requested media upon determining that the reservation identification is not valid.

The remarks made above with respect to claims 1 and 107 and the disclosures of Wisner similarly apply to claim 130. With respect to claim 130, Wisner fails to teach, disclose, or suggest comparing a reservation identification received at the stream caster to the valid reservation identification to determine if the reservation identification is valid. Wisner also does not teach, disclose, or suggest a stream caster is a part of a switch.

Amended claim 132 is patentable over Wisner under 35 U.S.C. § 102(e) because the underlined portions of independent claim 132 below are not disclosed, taught, or suggested by the cited references.

132. A method for streaming requested media from a switch comprising:  
receiving at a stream routing processor signaling inquiring if the switch is configured to stream the requested media;  
determining at the stream routing processor if the switch is configured to stream the requested media, and, if so, acknowledging the inquiry;  
receiving reservation data at the stream routing processor, the reservation data comprising a valid reservation identification;  
receiving a reservation identification at a streaming device of the switch;  
comparing the reservation identification received at the streaming device to the valid reservation identification to determine if the reservation identification is valid;  
and  
streaming at least partially the requested media when the reservation identification is determined to be valid.

The remarks made above with respect to claim and the disclosures of Wisner similarly apply to claim 132. With respect to claim 132, Wisner fails to teach, disclose, or suggest

comparing a reservation identification received at the stream caster to the valid reservation identification to determine if the reservation identification is valid. Wisner also does not teach, disclose, or suggest a stream caster is a part of a switch.

Amended claim 133 is patentable over Wisner under 35 U.S.C. § 102(e) because the underlined portions of independent claim 133 below are not disclosed, taught, or suggested by the cited references.

133. A method for streaming media to a viewer comprising:  
determining if a streaming device is configured to stream requested media, and, if so,  
receiving reservation data comprising a valid reservation identification and  
transmitting the valid reservation identification; and  
accepting a session from the viewer at the streaming device to stream at least partially  
the requested media upon receiving and validating a reservation identification  
using the valid reservation identification at the streaming device, wherein  
validating the reservation identification comprises comparing the reservation  
identification to the valid reservation identification at the streaming device to  
determine if the reservation identification is valid.

The remarks made above with respect to claims 1 and 107 and the disclosures of Wisner similarly apply to claim 133. With respect to claim 133, Wisner fails to teach, disclose, or suggest accepting a session from the viewer at the streaming device to stream at least partially the requested media upon receiving and validating a reservation identification using the valid reservation identification at the streaming device, wherein validating the reservation identification comprises comparing the reservation identification to the valid reservation identification at the streaming device to determine if the reservation identification is valid.

Amended claim 134 is patentable over Wisner under 35 U.S.C. § 102(e) because the underlined portions of independent claim 107 below are not disclosed, taught, or suggested by the cited references.

134. A method for streaming media from a switch comprising:

determining at a stream routing processor if a streaming device of the switch is configured to stream requested media;  
receiving reservation data comprising a valid reservation identification at the stream routing processor and transmitting the valid reservation identification to the streaming device;  
accepting a session to stream at least partially the requested media upon receiving and validating a reservation identification using the valid reservation identification at the streaming device, wherein validating the reservation identification comprises comparing the reservation identification to the valid reservation identification at the streaming device to determine if the reservation identification is valid; and  
monitoring the streaming device and notifying the stream routing processor of a status of the streaming device.

The remarks made above with respect to claims 1 and 102 and the disclosures of Wiser similarly apply to claim 134. With respect to claim 134, Wiser fails to teach, disclose, or suggest accepting a session to stream at least partially the requested media upon receiving and validating a reservation identification using the valid reservation identification at the streaming device, wherein validating the reservation identification comprises comparing the reservation identification to the valid reservation identification at the streaming device to determine if the reservation identification is valid. Wiser also does not teach, disclose, or suggest a streaming devices a part of a switch. Accordingly, Wiser cannot teach determining at a stream routing processor if a streaming device of the switch is configured to stream requested media.

Because claims 1, 10, 102, 107, 130, 132-134 are believed patentable, it is not necessary to discuss patentable limitations of claims depending there from, the reference, or the rejections. The lack of a discussion of patentable limitations of those dependent claims should not be construed to mean that there are not patentable limitations in those dependent claims. In view of the clarifying nature of the amendments submitted herewith, Applicants do not believe that the amended claims raise the issue of new matter. Rather, the amendments

merely clarify the distinction between the claimed subject matter and the cited art. Accordingly, Applicants do not believe a new search is required.

Further, all reasons for patentability of the independent and dependent claims have not necessarily been discussed herein. No implication or construction should be made therefore.

Applicants have no further remarks with regard to any references cited by the Examiner and made of record, whether or not acted upon by the Examiner in the action's rejections, even if specifically identified in the action or any other paper or written or verbal communication. No implication or construction should be drawn about any review of the same by Applicants or Applicants' attorney.

Based on the foregoing, it is submitted that the Applicants' claims 1-58, 60-102, and 107-134 are patentable over the references of record. Issuance of a Notice of Allowance is solicited.

Applicants' attorney welcomes the opportunity to discuss the case with the Examiner in the event that there are any questions or comments regarding the response or the application.

This is intended to be a complete response to the Examiner's Office action mailed on June 21, 2010.

Respectfully submitted,

POLSINELLI SHUGHART PC



---

Robert O. Enyard, Jr., Reg. No. 57,780  
100 South Fourth Street, Suite 1100  
St. Louis, Missouri 63102  
Tel: (314) 889-8000  
Fax: (314) 231-1776  
Attorney for Applicants